



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: EA/04348/2019

**THE IMMIGRATION ACTS**

**Heard at Field House via Microsoft Decision & Reasons  
Teams Promulgated  
On 29 June 2021 On 14 July 2021**

**Before**

**UPPER TRIBUNAL JUDGE ALLEN**

**Between**

**YOUSAF MUHAMMAD SOHALL  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr S Tariq of West London Solicitors

For the Respondent: Ms J Isherwood, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a national of Pakistan. He appealed to a Judge of the First-tier Tribunal against the Secretary of State's decision of 2 August 2019 refusing his application for a residence card as an extended family member of an EEA national as defined in Regulation 8 of the Immigration (European Economic Area) Regulations 2006.

2. The claim was based on the appellant's relationship with his brother, the sponsor, and the relevant period is that, as noted by the judge at paragraph 26 of his decision, between 2006 to 2011 when the appellant was living in Pakistan, during which time the sponsor, his brother Javid Iqbal was living in France.
3. There had been an earlier appeal on the same basis in 2015. The judge in that case as in this case also was not satisfied with the evidence of dependency.
4. It was accepted that the appellant and the sponsor are related as claimed and also that the sponsor was exercising Community rights at the relevant times.
5. In her decision letter the Secretary of State did not accept that the appellant was dependent on or residing with the sponsor immediately prior to entering the United Kingdom. The appellant with regard to the period of 2006 to 2011 had previously provided four MoneyGram receipts and had now provided money transfer receipts from ZeeQue Financial Services and a letter from Garrison Public High School. In his witness statement he said that at the time of the previous hearing he was only able to produce four money transfer receipts from Asma Currency Exchange. Those are in his bundle and cover the period from February 2009 to September 2010. Asma Currency Exchange had provided a response to an email request, stating that the money was received from Javid Iqbal. The judge noted the MoneyGram receipts and the name of the receiver, which was the appellant. These were after the appellant's arrival in the United Kingdom and were from the sponsor in France.
6. The appellant in his evidence said that the sponsor had paid for his education in Pakistan. He said that whilst he lived in a joint household with his brothers and his parents they were not able to support him. He also said that the sponsor provided money for him to study in the United Kingdom. The judge noted the terms of the school letter, which confirmed that the appellant studied at the school between 2002 to 2008. It stated: "Mr Javid Iqbal, his elder brother who lived in France, used to visit us twice a year to obtain his progress report and also paid his fees in advance for upcoming months". The sponsor said that the fees were paid once a year in cash. He had not brought the receipts to the hearing. The evidence of the appellant was regarded by the judge as differing in that he had stated that there was a card which showed that each term's fees were paid. He also said that money was sent for his maintenance. The judge noted that there were no receipts from 2006 to 2008 and the only record of support was the letter from the school. There were receipts from currency exchange and also ZeeQue for the period after the appellant left the school and before he came to the United Kingdom. These showed eighteen payments between January 2009 and January 2011. The judge noted that no documents were produced to the respondent with the

application and the ZeeQue receipts were only produced with the appellant's bundle in December 2019. They were produced nine to ten years after the transactions to which they referred. The judge considered this to raise questions about their validity and the documents were to be considered in line with the overall credibility of the evidence.

7. The judge said that he needed to be satisfied that the money was not for maintaining a particular standard of living or for luxuries but was provided for the appellant's essential needs. It was not necessary that the support was the only money provided but that it was necessary for the appellant's essential needs. The judge considered that with many family members in Pakistan the evidence was hard to believe. It was a joint household with many members working. The sponsor had given evidence at the previous Tribunal hearing of his family in France. No questions were asked about their whereabouts or how he maintained both them and the appellant. Whilst a rough calculation was given of needs, the actual outgoings of the appellant had not been shown. The judge commented that the letter from the school lacked detail and amounts of money paid. No bank statements had been provided to show payments as the payments were said to be in cash and no receipts produced. The judge said there was a discrepancy in that the school said that the brother came twice a year and the sponsor that he went and paid once a year with a receipt given and the appellant said that there was a payment card used each term. The judge considered that the father retired in 1995 when the sponsor would have been about 19 and apart from one brother the others were younger and the father must have been able to provide for his family on his pension at that stage.
8. The judge noted the findings of the judge at the earlier hearing as being the starting point for his considerations. The judge there had found that the appellant had provided no evidence which the judge accepted that the sponsor had been meeting his essential living needs prior to the sponsor moving to live in the United Kingdom. The judge said that he had noted the additional evidence of receipts and the oral evidence given. There had been no evidence to state that the money was for the appellant's essential needs. The evidence conflicted over certain aspects of the case and lacked credibility in certain areas which he had highlighted. The new documents were obtained a long time after the transactions and the judge did not accept their validity in the light of the overall credibility of the evidence.
9. He went on to say that even if it were accepted that these payments were made he was not satisfied that the money was needed for the appellant's essential needs. There had not been anything to verify that the appellant was in need of this money. This was especially true in view of the findings of the earlier judge and the explanation of the joint household given at that time. There it had been said that the family lived as a joint household and all the brothers provided financial assistance to their father. On his own evidence the appellant had said that they lived as a joint household, which meant that all of his brothers assisted his father financially so the

appellant could be maintained by his father and his “essential living needs” were met.

10. The judge concluded that on the information provided the appellant was not dependent upon the sponsor from 2006 to 2011. He said that he had noted and taken account of the case law about regular payments and had looked at the specific evidence provided and reminded himself about the burden of proof and the standard of proof. The appeal was as a consequence dismissed.
11. The appellant sought and was granted permission to appeal on the basis in particular that the judge had failed to consider the reliability of the ZeeQue Financial Services receipts within the context of the evidence as a whole and in particular the sponsor’s witness statement which indicated that the receipts had been obtained on a recent visit to Pakistan.
12. In his submissions, Mr Tariq adopted and developed the points made in the grounds of appeal and also in his skeleton argument. He went through the evidence that had been before the judge. The sponsor had paid for the appellant’s school fees as his other brothers could not do so. ZeeQue money transfers for living and college fees had been provided as the appellant’s father was not able to pay. The receipts were in the appellant’s name. The school had been paid in cash. The sponsor had managed to obtain the ZeeQue receipts. He had provided extra money as and when needed. The appellant would have to show his ID card in order to get the money. The evidence was very strong and the credibility of the appellant and the sponsor had not been disputed. It was noted that no questions had been asked about the brother’s family in France.
13. In his witness statement, the sponsor had said as recorded at paragraph 10 about the money being for essential needs in contrast to what the judge had found. His findings were contrary to the facts about the appellant’s needs. It should be questioned why they would be sent to the appellant to collect as cash when there were other siblings. The matter was to be considered in light of the guidance in Reyes [2013] UKUT 00314 (IAC). It was a factual test and one of a broad approach being needed to be taken with regard to the circumstances. The appellant was the youngest of a big family and the money was sent as he needed it for clothing and schooling. The evidence had been consistent. The issue of dependency had been addressed and the reasoning was inadequate. It was not just a question of weight. Detailed reasoning was needed if the witness statement about the family’s circumstances was not accepted and it should be questioned why the payments would be made to the youngest brother and over such a lengthy period. In his witness statement at paragraphs 4 and 7 the sponsor referred to the difficulties in obtaining documents. It was plausible to obtain the letter from the school and he had said how he had got the ZeeQue receipts.

14. In her submissions, Ms Isherwood argued that the reasoning was required to be adequate and sufficient and that had been done by the judge. He had noted contradictions, at paragraph 29 of his decision. He had gone through the evidence. There were contradictions about the bank accounts and the judge had followed the guidance in Reyes. He had clearly acknowledged and considered the evidence at paragraphs 26 and 27 and considered at paragraph 28 the discrepancies with regard to the payment of the school fees. The inconsistencies had been highlighted. There was a lack of bank statements etc. to support what was asserted. The reasoning was adequate and the judge had not erred in law.
15. By way of reply, Mr Tariq argued that with regard to the claimed discrepancies about how the school was paid, when one looked at paragraph 9 of the judge's decision there was no mention that the appellant claimed there was a payment for each term. The brother had visited and paid and said that he paid cash and this was shown through the money receipts. The school letter was credible. Though there was a lack of bank statements, it was a question of the balance of probabilities only and it was relevant that it was the youngest brother to whom this money was paid. The judge had not followed the guidance in Reyes which required a holistic examination of the facts and circumstances. There was evidence and witness statements which had been found to be credible and had not been questioned. The ZeeQue payments covered the crucial period. It was clear from the witness statements that the money was needed, in contrast to what the judge had said at paragraph 31 of the decision.
16. I reserved my decision.
17. The judge properly noted the findings of the judge at the earlier hearing and the conclusion is summarised in his decision at paragraph 30. He went on to say that he had noted the additional evidence of receipts and the oral evidence given. He referred to conflicts in the evidence over certain aspects of the case. This, I think, is in particular a reference to the fact that the school letter referred to the sponsor visiting twice a year to obtain a progress report and paid the appellant's fees in advance for upcoming months, and the sponsor said that the fees were paid once a year in cash and had not brought the receipts to the hearing. The appellant's evidence was that there was a card which showed that each term's fees were paid. In the summary of his oral evidence at paragraph 9 he had said that the fees were paid in cash and there was a card from the school which used to state it was paid but he no longer had the card.
18. I consider that it was open to the judge to have concerns about credibility of the evidence, bearing in mind what I agree are discrepancies in the evidence as to the way in which the payment of the school fees was made. I also consider that it was open to him to have the doubts that he had about the very late production of the ZeeQue receipts which were not produced at the earlier hearing and which properly raised questions about

their validity. All the appellant's brother, the sponsor, said about the ZeeQue receipts was that at the earlier hearing he was only able to produce four money transfer receipts from Asma Currency Exchange and since then he had been able to trace money receipts from ZeeQue Financial Services Limited in Pakistan. I consider that it was open to the judge also to find lacking in credibility the fact that there were so many family members in Pakistan, a joint household with many members working, that the money was necessary for the essential needs of the appellant. The letter from the school was regarded, again a finding open to the judge, as lacking in detail and/or lacking evidence as to the amounts of money paid and there was as accepted a lack of bank statements to show the payments. It was a relevant point to note at the end of paragraph 29 that the father retired in 1995 when the sponsor would have been about 19 and not providing for the family or the appellant and yet that the father must have been able to provide for his family on his pension at that stage. Though the judge did not refer specifically to the brief explanation given by the sponsor of the fact that he had now been able to obtain the ZeeQue receipts, it is clear that that evidence was before the judge and was properly considered. It was not necessary for him to refer specifically to the fact that payments were made to the appellant rather than any other member of the family. In my view, it was open to the judge not to accept the credibility of the new documents in light of his particular and general concerns about credibility. The alternative findings were also open to him. He properly bore in mind the findings of the earlier judge and the explanation of the joint household given at that time which led him not to be satisfied that the money was required for the appellant's essential needs. This alternative finding was also open to the judge.

19. In conclusion therefore, I find that the judge did not err in law and his decision dismissing this appeal is maintained.

**Notice of Decision**

The appeal is dismissed.

No anonymity direction is made.



Signed

Date 7 July 2021

Upper Tribunal Judge Allen